

# **Exhibit 1**



Caution

As of: December 21, 2020 10:45 PM Z

**In re World Trade Ctr. Disaster Site Litig.**

United States Court of Appeals for the Second Circuit

March 9, 2007, Decided ; March 9, 2007, Filed

06-5324-cv, 07-0185-op

**Reporter**

2007 U.S. App. LEXIS 8728 \*

In re World Trade Center Disaster Site  
Litigation; In re City of New York, et al.,  
Petitioners.

**Subsequent History:** Later proceeding at [In re World Trade Ctr. Lower Manhattan Disaster Site Litig., 2007 U.S. Dist. LEXIS 47334 \(S.D.N.Y., June 29, 2007\)](#)

Stay vacated by, Remanded by, in part [McCue v. City of New York \(In re World Trade Ctr. Disaster Site Litig.\), 2007 U.S. App. LEXIS 23371 \(2d Cir. N.Y., Oct. 5, 2007\)](#)

**Prior History:** [In re World Trade Ctr. Disaster Site Litig., 469 F. Supp. 2d 134, 2007 U.S. Dist. LEXIS 3761 \(S.D.N.Y., 2007\)](#)

**Core Terms**

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Appellants-petitioners, docketed, motion to dismiss, mandamus

**Counsel:** [\*1] For Alfred Luchetti, Andrea Cavicchio, Andrea Weisenburger, Ann Marie Duigan, Ann Marie Duignan, Anna Maria Hubner, Anthony Devita, Arlene Montalvo,

Barbara Kadnar, Barry Buss, Bernard Stinchcomb, Blanca Goffredo, Carol Gavitt, Carol Retundie, Carolyn Mundy, Catherine Lang, Cathy Mongiello, Christine Broome, Christine Johnson, Christine Stinchcomb, Christopher Delgiorno, Cliff Carty, Concetta Zuccaro, Corinne Mulham, Danielle Eivers, David McDonough, David Nolan, Dean Curti, Dennis Mcconville, Derek Kelly, Dewardranth Samaroo, Diane Doherty, Diane Donovan, Diane Hoch Sankey, Donald Carson, Donald Striffler, Donna Haskell, Francesca Gillam, Frank Goffredo, Frank Haskell, Frank Malone, Gail Mcconville, Gloria Elaine Carson, Gregg Weisenburger, Gregory Forsyth, Gregory A. Forsyth, Herbert Pate, James Albach, James Checco, James Lang, James McHugh, James A. Kadnar, Jason Porcaro, Jean Imparato, Jeanette Buss, Jerry O'Connor, Jessie K. Horton, Jill Miskanic, Joann Delgiorno, John Boyle, John Jackson, John Miskanic, John Quevedo, John Quinn, John Tiska, John Zuccaro, John J. Quinn, Joseph Eivers, Joseph Falcone, Joseph Gavitt, Joseph Imparato, Joseph Murphy, Joseph Scaramuzzino, Judy Checco, [\*2] Kathleen Carty, Keith Decaro, Kelly M. Miller, Kenneth Donovan, Kenneth Miccio, Kenneth J. Strohl, Kevin Farrell, Kevin Mongiello, Kevin O'Brien, Kim Ryan Decaro, Lane Metro, Laranie Devita, Larrie Placide, Laura Morello, Lawrence Ford, Lawrence Horton, Lenny Dinotte, Louise Nolan, Marc Morello, Margret McHugh, Marion S. Mishkin, Mary Ellen Luchetti, Mary Jane Striffler, Maryann Bubelnik, Mathew Mulham,

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Meadow, NY.

For AMEC Construction Management, Inc., AMEC Earth & Environmental, Inc., Bechtel Associates Professional Corporation, Bechtel Construction, Inc., Bechtel [\*5] Corporation, Bechtel Environmental, Inc., Bovis Holdings Limited, Bovis International, Inc., Bovis Lend Lease Interiors, Inc., Bovis Lend Lease LMD, Bovis Lend Lease, Inc., Evergreen Recycling of Corona (E.R.O.C.), Plaza Construction Corp., Plaza Construction Management Corp., Tully Construction Co., Inc., Tully Construction Company, Tully Consulting Corp., Tully Industries Inc., Turner Construction Co., Turner Construction Company, Turner/Plaza, A Joint Venture, Defendants-Appellants: James E. Tyrrell Esq., Patton Boggs LLP, Newark, NJ.

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Gloria Elaine Carson, Herbert Pate, Jason Porcaro, Jerry O'Connor, Jessie K. Horton, Joseph Falcone, Joseph Scaramuzzino, Kathleen Carty, Kelly M. Miller, Kevin O'Brien, Lawrence Ford, Lawrence Horton, Lenny Dinotte, Louise Nolan, Marion S. Mishkin, Nicola Cavicchio, Patricia O'Brien, Phyliss Costarella, Robert Ayers, Robert Johnson, Robert Panarella, William J. Sankey, Plaintiffs-Appellants: Marc Jay Bern Esq., Worby Gorner Edelman & Napoli Bern, LLP, New York, NY.

For Arlene McGillick, Francis Lavery, Jon J. McGillick, Kathryn Lavery, Francis Lavery, Kathryn Lavery, Plaintiffs-Appellants: Paul A Marber Esq., Sullivan Papain Block, McGrath & Cannavo, P.C., New York, NY.

For Angela Larosa, Anthony R. Larosa, Clinton Beyer, Colleen Ariola, George Lamoreaux, Gina McNally, Ingrid Lamoreaux, James Blake, James Mascarella, Janet Healy, Joan Beyer, John F. Taggart, John M. Deneau, Joseph Ariola, Joseph Healy, Leah Spiller, Lisa Deneau, Lori Malloy, Maria Villari, Michael Spiller, Patrick Malloy, Peter Blake, Roger Danvers, Sharon Blake, Theresa Taggart, Thomas Magee, Timothy Villari, Vincent McNally, [\*7] Plaintiffs-Appellees: Paul A. Marber Esq., Sullivan Papain Block, McGrath & Cannavo, New York, NY.

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For Richard Mighdoll, Plaintiff-Appellant: Richard Mighdoll, Sullivan, Papain, Block, McGrath & Cannavo, P.C., New York, NY.

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For Victoria O'Connor, Plaintiff-Appellant:  
Suzanne M. Scott Esq., Friedman, Friedman,  
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For Turner Construction International, LLC,  
Defendant-Appellant: Turner Construction  
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Cecelia Borcharding, Charles La Barbera,  
Ernest Medaglia, Jeanne Kolarik, Juan  
Cubero, Kevin Reynolds, Lionel Payette,  
Michelle Payette, Patricia Agugliaro, Philip J.  
Pfersching, Richard Allison, Rosa Cubero,  
Susan Allison, Susan Medaglia, Plaintiffs-  
Appellants: William Joseph [\*8] Dubanevich  
Esq., Worby, Groner, Edelman & Napoli Bern  
L.L.P, East Meadow, NY.

**Judges:** Present: Hon. Richard J. Cardamone,  
Hon. Chester J. Straub, Hon. J. Clifford  
Wallace, \* Circuit Judges.

## Opinion

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### Summary Order

Appellants-petitioners, through counsel, move  
for a writ of mandamus and a stay of the  
district court proceedings pending appeal.  
Appellees, through counsel, move to dismiss

the appeal docketed under 06-5324-cv.  
Because it is at least arguable whether some  
or all of the assertions of immunity put forward  
by appellants-petitioners have merit, upon due  
consideration, it is hereby ORDERED that the  
motion for a stay of trial as well as pre-trial  
proceedings is GRANTED. See [\*Mitchell v. Forsyth\*, 472 U.S. 511, 526-27, 105 S. Ct. 2806, 86 L. Ed. 2d 411 \(1985\)](#)(immunity from  
suit is "effectively lost if a case is erroneously  
permitted to go to trial"). It is further  
ORDERED that, regarding the appeal  
docketed under 06-5324-cv, the appellees'  
motion to dismiss is referred to the merits  
panel that decides the appeal. Appellants-  
petitioners' motion for a writ of mandamus,  
docketed under 07-0185-op, [\*9] is DENIED  
as moot. A scheduling order for the appeal  
shall issue forthwith and the appeal will be  
heard on an expedited basis.

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\* The Honorable J. Clifford Wallace, United States Court of  
Appeals for the Ninth Circuit, sitting by designation.